

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION**

**JOSE MARTINEZ,**

**Plaintiffs,**

**VS.**

**MOUNT VERNON FIRE  
INSURANCE COMPANY,**

**Defendant.**

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**CIVIL ACTION NO.**

5:16-cv-349

**DEFENDANT MOUNT VERNON FIRE INSURANCE  
COMPANY'S NOTICE OF REMOVAL**

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. Sections 1441 and 1446, Defendant Mount Vernon Fire Insurance Company (“Mount Vernon”) in Cause No. 2016, CVF-002563-D2, pending in the 111th Judicial District Court of Webb, Texas, files this Notice of Removal from that court to the United States District Court for the Southern District of Texas, Laredo Division, because the proper parties are of diverse citizenship and the amount in controversy requirement is satisfied. In support of this Notice of Removal, Defendant respectfully shows:

## I. FACTUAL BACKGROUND

1.1 On October 4, 2016, Plaintiff Jose Martinez. (“Plaintiff”) filed his Original Petition in the matter styled *Jose Martinez vs. Mount Vernon Fire Insurance Company*; Cause No. 2016-CVF-002563-D2, in the 111th Judicial District Court of Webb County, Texas, in

which Plaintiff asserts that Defendant conducted an improper investigation of Plaintiff's claim for damages and wrongfully denied Plaintiff's claim for damage to its property under its commercial property insurance policy issued by Defendant Mount Vernon Fire Insurance Company ("Mount Vernon"). In addition, Plaintiff also asserts claims against Defendant under the Texas Deceptive Trade Practices Act and Texas Insurance Code.

1.2 Plaintiff served Defendant with the citation and Plaintiff's Original Petition on November 10, 2016. Defendant files this Notice of Removal within the thirty-day time period required by 28 U. S. C. Section 1446(b). Attached hereto as Exhibit "1" is the Index of State Court Documents. A copy of the Webb County Clerk's file for this case is attached as Exhibit "2", which includes true and correct copies of all executed process, pleadings and orders, and a copy of the docket sheet.

## **II.**

### **BASIS FOR REMOVAL**

2.1 Removal is proper based upon diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

#### **A. THE PARTIES ARE OF DIVERSE CITIZENSHIP**

2.2 Upon information and belief, and based on the allegations set forth in Plaintiff's Original Petition, Plaintiff Jose Martinez resides in Laredo, Webb County Texas. *See* Plaintiffs' Original Petition at p.2.

2.3 Defendant Mount Vernon Fire Insurance Company ("Mount Vernon") is an Pennsylvania company with its principal place of business in Pennsylvania, and is a citizen of the State of Pennsylvania for diversity purposes. Accordingly, Defendant Mount Vernon is of diverse citizenship to Plaintiff Jose Martinez

**B. THE AMOUNT IN CONTROVERSY EXCEEDS THE JURISDICTIONAL REQUIREMENTS FOR SUBJECT MATTER JURISDICTION.**

2.4 The amount in controversy requirement for Federal diversity jurisdiction is clearly satisfied in this case as evidenced by Plaintiff's Original Petition in which Plaintiff expressly alleges that he "seeks monetary relief of more than \$200,000.00 but not more than \$1,000,000.00." *See* Original Petition at page 16. This amount clearly exceeds the jurisdictional requirements for subject matter jurisdiction, and demonstrates that the amount in controversy requirement is satisfied.

**III.  
THE REMOVAL IS PROCEDURALLY CORRECT**

3.1 Defendant was first served with Plaintiffs' Original Petition and process on November 10, 2016. Defendant files this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b).

3.2 Venue is proper in this District and Division under 28 U.S.C. §1446(a) because this District and Division include the county in which the state action has been pending and because a substantial part of the events giving rise to Plaintiffs' claim allegedly occurred in this District and Division.

3.3 Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

3.4 Pursuant to 28 U.S.C. §1446(d), promptly after Defendant files this Notice, written notice of the filing will be given to Plaintiff, the adverse parties.

3.5 Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of the Webb County District Court, promptly after Defendant files this Notice.

**IV.**  
**DOCUMENTS AND EXHIBITS ACCOMPANYING REMOVAL**

4.1 Simultaneously with the filing of this Notice of Removal, attached hereto as Exhibit “1” is an index of all documents filed in the state court action and a copy of each document.

4.2 Attached hereto as Exhibit “2” is a copy of the Docket Sheet/Case Summary of the case pending in 111th Judicial District Court of Webb County, Texas.

4.2A Attached hereto as Exhibit “2A” is a copy of Plaintiffs’ Original Petition.

4.2B Attached hereto as Exhibit “2B” is a copy of the Return Service of Citation issued to Mount Vernon Fire Insurance Company by delivering to Mount Vernon Fire Insurance Company by mail.

4.3C Attached hereto as Exhibit “2C” is a copy of the Notice of Calendar Call.

4.4D Attached hereto as Exhibit “2D” is a copy of the Citation issued to Mount Vernon Fire Insurance Company.

4.5E Attached hereto as Exhibit “2E” is a copy of the USPS Tracking from DVA Consulting Services.

**V.**  
**CONCLUSION**

5.1 Based upon the foregoing, and other documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Defendant, Mount Vernon Fire Insurance Company hereby removes this case to this court for trial and determination.

Respectfully Submitted,

/s/Daniel P. Buechler

Daniel P. Buechler  
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**COUNSEL FOR DEFENDANT MOUNT  
VERNON FIRE INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that on December 6, 2016, I served the following document on counsel via electronic notice and/or facsimile:

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